

Step 2. Determine the Prior Record Level for the Offender

Unless the conviction is for a Class A offense or drug trafficking, the appropriate prior record level must be calculated for each felon.

Counting Prior Record Points *G.S. 15A-1340.14(b)*

(For offenses committed on or after December 1, 1997)¹

Prior record points are assigned to each prior conviction based on its offense class as follows:

Class A felony	10 points
Class B1 felony	9 points
Class B2, C, and D felony	6 points
Class E, F, and G felony	4 points
Class H and I felony	2 points
Class A1 and 1 misdemeanor, and misdemeanor impaired driving or impaired driving in a commercial vehicle	1 point

Prior convictions for Class 2 and Class 3 misdemeanors do not count, nor do prior misdemeanor traffic offenses under Chapter 20 of the North Carolina General Statutes (except for death by vehicle). Infractions do not count because they are noncriminal violations of law.

The classification of the prior offense is the classification assigned to the offense at the time the present offense was committed (the offense for which the offender is being sentenced).

One additional point is added if all the elements of the present offense are included in any prior offense, whether or not the prior offense was used in determining the prior record level. No more than one additional point can be added for this factor. This factor must be found by the court.

One additional point is added if the offender is on supervised or unsupervised probation, parole, or post-release supervision, serving an active sentence in jail or prison, or is on escape from a correctional institution while serving a sentence of imprisonment at the time the present offense was committed. No more than one additional point can be added for this factor. **(Effective June 24, 2004)** This factor must either be found by the jury beyond a reasonable doubt or admitted by the defendant.

An example work sheet for computing prior record points and determining the prior record level is shown in **Table 2**.

Case Law

- Although a defendant's stipulation to a particular prior record level is sufficient evidence to support sentencing at that level, the stipulation is invalid insofar as it reflects an error of law in the prior record level calculation.²

¹ For offenses committed before December 1, 1997, prior convictions for impaired driving and impaired driving in a commercial vehicle did not count and they were not assigned prior record points.

² *State v. Flint*, __ N.C. App. __, 682 S.E.2d 443 (2009).